
**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH**

DWAYNE TAYLOR ROWLAND, JR.
Plaintiff,
v.
SERGEANT McMURPHY et al.,
Defendants.

**MEMORANDUM DECISION AND
ORDER ON MOTION TO APPOINT
COUNSEL AND MOTION TO STAY**

Case No. 2:23CV00280-DAK

Judge Dale A. Kimball

Mr. Rowland has filed a Motion to Appoint Counsel and a Motion to Stay This Action.¹ Because this is a civil case, Mr. Rowland has no constitutional right to counsel.² The court, however, may, in its discretion, appoint counsel for indigent inmates.³ "The burden is upon the applicant to convince the court that there is sufficient merit to his claim to warrant the appointment of counsel."⁴ When deciding whether to appoint counsel, a variety of factors should be considered, "including the merits of the litigant's claims, the nature of the factual issues raised in the claims, the litigant's ability to present his claims, and the complexity of the legal issues raised by the claims."⁵ Considering these factors, the court concludes that (1) it is not clear thus far that Mr. Rowland has asserted a colorable claim; (2) the issues here are not complex; and (3) Mr. Rowland is not necessarily unable to adequately

¹ ECF Nos. 6 & 9, respectively.

² See *Durre v. Dempsey*, 869 F.2d 543, 547 (10th Cir. 1985).

³ See 28 U.S.C.S. § 1915(e)(1) (2021); *Shabazz v. Askins*, 14 F.3d 533, 535 (10th Cir. 1994).

⁴ *McCarthy v. Weinberg*, 753 F.2d 836, 838 (10th Cir. 1985).

⁵ *Rucks v. Boergermann*, 57 F.3d 978, 979 (10th Cir. 1995) (internal quotation marks omitted).

function to pursue this matter. Thus, the court denies for now Mr. Rowland's Motion to Appoint Counsel.

Mr. Rowland's Motion to Stay This Action is moot, as he requested that the action be stayed until January 22, 2025, and that date has now passed. The court will screen Mr. Rowland's Amended Complaint in due course.

Accordingly, IT IS THEREFORE ORDERED that Mr. Rowland's Motion to Appoint Counsel [ECF No. 6] is DENIED, and his Motion to Stay This Action [ECF No. 9] is MOOT.

DATED this 3rd day of February 2025.

BY THE COURT:


DALE A. KIMBALL
United States District Judge